

REMARKS

Status of Claims

During a telephone discussion on December 16, 2002 with the Applicants, the Examiner imposed a restriction requirement to the following two groups: Group I: Claims 1-34, and Group II: Claims 35-62. Applicants elected Group I. Accordingly, Claims 1-34 are pending. Claims 35-62 have been cancelled.

Objection under 37 C.F.R. § 1.175(b)(1)

The Examiner states that the reissue oath/declaration is defective because it “does not identify a single word or phrase or expression in the specification or in the original patent and how it renders the patent wholly or partly inoperative or invalid” (Office Action page 3, paragraph 5.)

Applicants prepared a new reissue declaration. On September 12, 2003, Applicants faxed this new reissue declaration to the Examiner. The Examiner approved of the language in this new reissue declaration.

The present application has three inventors, Carl J. Pacifico, Wen-Hsin Wu and Marta Fraley. The new reissue declaration was executed by Carl J. Pacifico. However, Wen-Hsin Wu and Marta Fraley refused to execute the new declaration, as they had refused in the original declaration. Accordingly, on November 17, 2003, Applicants filed a Second Petition under 37 C.F.R. § 1.47(a) requesting acceptance of the new reissue declaration executed by one of the three inventors on behalf of his joint inventors who have refused to execute the declaration. The petition has not yet been granted.

Objection under 37 C.F.R. § 1.178

The Examiner states that “[t]he original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed.” (Office Action page 3, paragraph 7.)

Once the present application is deemed allowable, Applicants will file the original patent or a statement as to loss or inaccessibility of the original patent.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 23, 32 and 33 have been rejected as being indefinite. In particular, the Examiner states that “Claim 23 appears to be missing the word ‘being’...”; and that the recited bacteria in Claims 32 and 33 need to be italicized. (Office Action page 3, paragraph 6.) The Applicants have amended the claims as suggested by the Examiner. Accordingly, these rejections have been obviated.

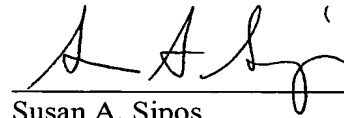
For the sake of consistency, Applicants have also amended Claim 19 in order to italicize the recited bacteria.

Support for Claim Amendments

Claims 19, 23, 32 and 33 have been amended merely to remedy informalities. See above.

Applicants respectfully submit that the application is now in condition for allowance, which action is earnestly solicited. If resolution of any remaining issue is required prior to allowance of this application, it is respectfully requested that the Examiner contact Applicants' undersigned attorney at the telephone number provided below.

Respectfully submitted,



Susan A. Sipos
Registration No.: 43,128
Attorney for Applicants

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(516) 822-3550